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*Attorneys for Defendant,*  
**99 CENTS ONLY STORES, LLC**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DAMON DUPREE MILLER,  
  
Plaintiff,

v.

99 CENTS ONLY STORES, LLC; DOE  
EMPLOYEES I through XXX, inclusive; and  
DOE MAINTENANCE/CUSTODIAL  
COMPANIES I through XXX, inclusive,  
  
Defendants.

CASE NO.:

**DEFENDANT, 99 CENTS ONLY STORES, LLC' S NOTICE OF REMOVAL OF  
ACTION TO UNITED STATES DISTRICT COURT UNDER 28 USC § 1441(a)**

Defendant, 99 CENTS ONLY STORES, LLC, by its undersigned attorney, LEW BRANDON, JR., ESQ., ANDREW GUZIK, ESQ., and HOMERO GONZALEZ, ESQ., of BRANDON | SMERBER LAW FIRM, hereby removes the above-captioned case to the United States District Court, Clark County, Nevada, where the action is now pending, pursuant to 28 USC § 1441(a) and states as follows:

1           1.       The above -entitled action was commenced in the Eighth Judicial District Court,  
2 Clark County, State of Nevada on February 9, 2021, bearing Case No. A-21-829127-C. The action  
3 is now pending in the Eighth Judicial District Court, Clark County, State of Nevada.

4           2.       Plaintiff filed his initial complaint on or about February 9, 2021. Plaintiff's  
5 Complaint fails to state that this case is one which is or has become removable. *See Harris v.*  
6 *Bankers Life & Cas. Co.*, 425 F.3d 689 (9th Cir. 2005). Defendant, 99 Cents Only Stores, LLC.  
7 filed an Answer to the complaint on February 12, 2021.

8           3.       On February 23, 2021, Plaintiff served upon Defendant, 99 Cents Store Only,  
9 LLC, his Petition for Exemption from Arbitration, wherein Plaintiff alleges that he sustained  
10 general damages of approximately Fifty-Four Thousand Two Hundred Sixty-Five Dollars &  
11 83/100 (\$54,265.83) with residual pain to his low back, radiating down his legs with numbness  
12 in his toe. This Notice of Removal was filed timely as it was filed within thirty (30) days of  
13 service of the Petition for Exemption from Arbitration served upon 99 Cents Store Only, LLC,  
14 which was the first motion, order or other paper from which it could first be ascertained that this  
15 case is one which is or has become removable. *See* 28 U.S.C. 1446(b); *Harris*, 425 F.3d 689.

16           4.       Pursuant to Fed. R. Civ. P. 6 (a), the last day of the thirty (30) day period set forth  
17 under 28 U.S.C. 1446(b) is March 25, 2021. *See* 28 U.S.C. 1446(b); *Harris v. Bankers Life &*  
18 *Cas. Co.*, 425 F.3d 689 (9th Cir. 2005).

19           5.       This action concerns an allegation that the Defendant failed to design, construct,  
20 control, supervise, repair and/or maintain the property in a reasonable and safe manner, causing  
21 injury to Plaintiff.

22           6.       At the commencement of this action and at the time of the filing of this Notice of  
23 Removal, Plaintiff, DAMON DUPREE MILLER, was, and now is, a citizen of the State of  
24 Nevada.  
25  
26  
27  
28

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1           7.       At the commencement of this action and at all times herein, Defendant, 99  
2 CENTS STORE ONLY, LLC, was, and now is, a limited liability company duly organized and  
3 existing under the laws of the State of California with its principal place of business in California,  
4 and therefore, is a citizen of the State of California.

5  
6           8.       Upon information and belief, Plaintiff, DAMON DUPREE MILLER's general  
7 damages and unknown future medical specials are approximately Fifty-Four Thousand Two  
8 Hundred Sixty-Five Dollars & 83/100 (\$54,265.83) with residual pain to his low back, radiating  
9 down his legs with numbness in his toe. As a result, the amount in controversy exceeds Seventy-  
10 Five Thousand Dollars (\$75,000.00).

11  
12           9.       The United States District Court for the District of Nevada has original  
13 jurisdiction pursuant to 28 U.S.C. § 1332 in that the parties are citizens of different States and the  
14 amount in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00)  
15 exclusive of interests and costs.

16           10.      Accordingly, Plaintiff's Complaint is removal pursuant to 28 U.S.C. 1441, which  
17 provides that a defendant may remove a case over which the federal court has original jurisdiction.

18  
19           11.      A copy of all process and pleadings served upon the Defendant is attached hereto  
20 as Exhibit "1."

21           WHEREFORE, Defendant, 99 CENTS STORE ONLY, LLC, a California limited  
22 liability company respectfully requests that this action proceed in this Court as an action properly

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28 ///

1 removed to it.

2 DATED this 24<sup>th</sup> day of February, 2021.

3 **BRANDON | SMERBER LAW FIRM**

4 /s/ Lew Brandon, Jr., Esq.

5 **LEW BRANDON, JR., ESQ.**

6 Nevada Bar No. 5880

7 **ANDREW GUZIK, ESQ.**

8 Nevada Bar No. 12758

9 **HOMERO GONZALEZ, ESQ.**

10 Nevada Bar No. 15231

11 139 East Warm Springs Road

12 Las Vegas, Nevada 89119

13 *Attorneys for Defendant,*

14 *99 CENTS ONLY STORES, LLC*

15 **CERTIFICATE OF SERVICE**

16 Pursuant to NRCP 5(b), I hereby certify that on February 24, 2021, I served the foregoing  
17 **DEFENDANT, 99 CENTS ONLY STORES, LLC' S NOTICE OF REMOVAL OF**  
18 **ACTION TO UNITED STATES DISTRICT COURT UNDER 28 USC § 1441(a)** via the  
19 Court's electronic filing and service systems to all parties on the current service list.

20 **RAMZY P. LADAH, ESQ.**

21 Nevada Bar No. 11405

22 **JOSEPH C. CHU, ESQ.**

23 Nevada Bar No. 11082

24 **LADAH LAW FIRM**

25 517 S. Third Street

26 Las Vegas, Nevada 89101

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*Attorneys for Plaintiff,*

*DAMON DUPREE MILLER*

/s/ Bonita Alexander

An Employee of BRANDON | SMERBER LAW FIRM